

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12-cv-173-RJC-DCK**

**TONJA BILLINGSLEY,**

**Plaintiff,**

**v.**

**J. GRAHAM AND ASSOCIATES,**

**Defendants.**

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**ORDER**

**THIS MATTER** comes before the Court following its July 3, 2012 Order for Plaintiff Tonja Billingsley (“Plaintiff”) to file a motion for default by July 20, 2012. (Doc. No. 5).

Plaintiff filed this action against Defendant J. Graham and Associates, Inc. (“Defendant”) on March 16, 2012. (Doc. No. 1). Plaintiff filed proof of service on April 11, 2012. (Doc. No. 4). Defendant’s answer was due April 23, 2012. Defendant never filed an answer. Plaintiff has not moved for default. See FED. R. CIV. P. 55. It is Plaintiff’s duty to move this case forward and she has failed to do so.

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits

FED. R. CIV. P. 41(b). The Court ordered Plaintiff to file a motion for default by July 20, 2012 and warned that “[f]ailure to obey this Order will result in the dismissal of Plaintiff’s complaint.” (Doc. No. 5). Plaintiff failed to obey, or otherwise respond to, the Court’s Order.

**IT IS, THEREFORE, ORDERED** that Plaintiff complaint, (Doc. No. 1), is **DISMISSED**.

Signed: August 6, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

